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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,387	04/13/2004	Kathleen Nylund Jackson	312.007US1	3373

7590

11/15/2005

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EXAMINER
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LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/823,387

Applicant(s)

JACKSON, KATHLEEN NYLUND

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/23/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 23 the recitations “the at least one player taking at least one mandatory hit card attempting to receive a first hit card having a specific relationship in rank to the single card in the at least one player hand”, “if the at least one mandatory hit card has the specific relationship in the rank to the single card, or if the at least one mandatory hit card allows the at least one player to continue the game according to the rules of play of the wagering game, the player exercises an option of taking another hit card or standing, attempting to receive another hit card having a specific relationship in rank of the first hit card”, “taken a maximum number of hits” and “but has not taken a card that busts the at least one player’s hand” are **all indefinite**. The terms “hit card”, “specific relationship in rank”, “maximum number of hits”, “the game according to the rules of play” and “busts” are all **not** clearly defined. Although some of these terms are known in blackjack and baccarat, the Applicant’s specification does not suggest that the disclosed game is a variation of blackjack or baccarat, **thus these terms need to be defined in the claims**. Note, the definition of “bust” in the Applicant’s specification, page 9, lines 4-12, is clearly different than “bust” in blackjack. **The claims must be**

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**amended to more clearly recite the rules of the game as defined in the Applicant's specification, page 8, line 24 to page 10, line 18.**

In claims 26 and 27 the recitation "the dealer must continue taking hits until the dealer hand busts.....and the dealer hand is in play for a total number of cards in the dealer's hand attained before busting" is confusing and indefinite.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 17-20, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackjack.

The publication Scarne's Encyclopedia of Games discloses the game blackjack. To play blackjack a player places a wager. A dealer deals a first (single) card to the player and to the dealer. The dealer deals a second (mandatory hit) card to the player and to the dealer, so that the player and the dealer each have a two-card hand. It is inherent that there is a specific relationship in rank between the player's first (single) card and the second (mandatory hit) card. The second (mandatory hit) card maybe higher or lower in rank than the first (single) card. If the second (mandatory hit) card has a certain value, wherein the total value of the player's two-card hand is relatively low, the play exercises the option of taking another hit card attempting to receive

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another hit card having a specific relationship in rank to the first (single) card, (e.g. attempting to receive a total value of the three cards that is 21). When the player has elected to take no more hits, the dealer takes hits until the dealer busts according to blackjack game rules. Then wagers are resolved.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackjack as applied to claim 1 above, and further in view of Mostashari.

The patent to Mostashari discloses a blackjack game wherein a player allowed to double down only if the dealer card has a specific rank, col. 3, lines 29-33. In view of such teaching, it would have been obvious to modify the game of Blackjack by incorporating a rule that a player is allowed to double down only if the dealer card has a specific rank. This modification would have limited players from doubling down increasing the house advantage and increasing house profits.

7. Claims 10, 11, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackjack as applied to claim 1 above, and further in view of Lofink et al.

The patent to Lofink et al. teaches that it is known in blackjack that when a player doubles down, the player may double down again (triple the wager), col. 5, lines 4-12. In view of such teaching, it would have been obvious to modify Blackjack by incorporating the rule of allowing a player to double down again. This modification would have given players the perception of having greater advantage over the house. Thus, making Blackjack more attractive.

Lofink et al. also teaching that it is known in the blackjack art to provide an electronic video gaming machine version of blackjack, col. 9, lines 38-46. Thus, it would have been obvious to provide an electronic video gaming machine version of the conventional game of Blackjack.

8. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackjack as applied to claim 23 above, and further in view of Vancura.

The patent to Vancura teaches that it is known in blackjack for a player to win a bonus amount if the player receives a predetermined number of cards in the player's hand without busting, see Fig. 3, and therefore obvious.

#### ***Allowable Subject Matter***

9. Claims 4-7, 12-16, 26 and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

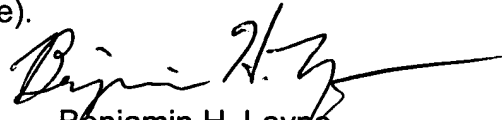
10. Claims 1 and 23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl